

Wallowa



Chieftain

THE REPRESENTATIVE NEWSPAPER OF WALLOWA COUNTY.

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ENTERPRISE, OREGON, FEBRUARY 6, 1902.

WHOLE NO. 924

Grand Reduction Sale



Beginning Saturday, Dec. 28th, we will place on sale an immense line of merchandise at astonishingly low prices. We do this in order to reduce our stock before taking our annual invoice Feb. 1st, and every one is invited to call and avail themselves of this opportunity to secure bargains.

We also take this opportunity to express to one and all our appreciation of their liberal patronage during the past year and solicit the same in the future. We assure you that we will do our utmost to merit your good will, and endeavor to serve you faithfully.

Wishing all a prosperous and happy New Year, we are

Respectfully yours,

E. M. & M. CO.

THE WORLD'S NEWS

FROM FAR & NEAR.

Clipped From Our Exchanges.

America leads in the matter of women practicing medicine. The first was Elizabeth Blackwell, who graduated as a physician in 1849. Three years later there were six in Philadelphia. In 1889 there 3000 women doctors in the United States; in 1896 there 4555, and now there are probably 6000, some of whom have a very lucrative practice.

Dr. Paul Walter Monday afternoon removed the cornea from the eye of William Strickell of Anamosa, Ia., who lost one eye and had the other badly injured in a mine explosion a few years ago. A filmy growth completely covered the cornea, which was entirely removed, and that of a rabbit substituted. In order to assure the success of the operation it was necessary to remove the cornea from the rabbit while it was alive and graft it as soon as possible.—Ex.

WASHINGTON, Jan. 29.—Lyman E. Cooley, on behalf of the contractors who built the Chicago drainage canal offers to build an isthmian canal complete, either at Nicaragua or Panama, under contract with the United States. He says either route is feasible, but thinks far better results could be had from the Nicaragua Canal, as once the canal is built, the United States will practically annex Costa Rica and Nicaragua and control their commerce. With the Panama route we would acquire nothing but a waterway.

LEWISTON, Idaho, Jan. 29.—Two hundred Nez Percés Indians are engaged in a tribal dance on Lapwai creek, 15 miles from this city. The dance is the result of a council that convened last week to discuss the proposed abandonment of Lapwai agency and the transfer of the same to the superintendent of the Lapwai Indian Industrial School. The council expressed disapproval of the acts of Superintendent Voorhies, in charge of the school, and who has enforced attendance of the Indian children at school.

PORT TOWNSEND, Wash., Jan. 30.—According to a report reaching here today, an earthquake and slide occurred in the Olympic mountains, in the Western portion of Jefferson county, just prior to the big storm of last week. The news was brought by a passenger arriving from down the Straits of Fuca, who stated that Indians report that a number of earthquake shocks were felt, which were followed by a crashing noise. The next day the Indian hunters came to the coast and reported that one of the peaks of the Olympic Range had broken off and slid into a small valley, almost filling it with dirt and snow. The little valley was uninhabited and a favorite hunting ground for the Indians.

Reclaiming the Desert.

Representative Moody introduced a bill appropriating \$100,000 to be expended by the secretary of the interior in preliminary steps looking to reclaiming the arid public lands in Oregon by irrigation.

Oregon has enough arid land to make comfortable homes for 50,000 people as soon as the water now going to waste is brought thence. The congressman from Oregon who uses his position to render these lands fertile does more good for Oregon than he who floods the people with buncomb speeches. To make homes for 50,000 people is a grand work that will bless the people and enrich the state.—Ex.

Found.

In this city a black, fairly good lap robe. The finder left same at the Chieftain office and the owner can have his property by calling at this office, proving property and paying this notice.

Pass it Along.

What may be called an endless chain of rhyme is going the rounds, as follows:

Still ol' Georgy's raisin'
The merriest kind of tune;
Roses in December
Whisperin' of June.
When you think it's winter,
With its skies of gloom,
Suddenly a frost flake
Melts into a bloom!
—Atlanta Constitution.

An' here in Luezeanner,
Why, everything's in bloom,
An' even when it's rainin'
It's pourin' down perfume,
The birds are always singin'
In sunshine an' in rain,
An' Luezeanner's raisin'—
Well, everything and cane.
—New Orleans Times-Democrat.

In Maryland we're happy—
The nor'west breeze pipe;
The canvasback is blooming
And the terripin is ripe.
The hard-shell crab is temptin'
The jaded appetite;
The oyster makes us joyous—
The world is running right.
—Baltimore American.

An' way down here in Houston
The world is on a boom;
But in amongst our boostin'
Th' roses bud and bloom;
An' oh, the skier are bluer
Than northern skies, I ween!
An' hearts are nobler, truer,
Where the Texas fields are green.
—Houston Post.

An' here in glorious Utah
We've got all we can hold;
The rocks are buddin' silver
Or bloomin' into gold;
The sky is full of sunshine,
The mountains blue and hazy
All our men are climbers
And every girl a daisy.
—Salt Lake Herald.

And even here in Boise
There is no settled gloom,
With the advertisin' goin'
On the Thunder Mountain boom.
An' the eager boys a comin',
With their picks and shovels bold,
You can rave about your posies,
But we're satisfied with gold.
—Boise Capital News.

Gold in every creek bed!
Gold beneath the snow!
Gold in all the gulches!
Beneath the stamp shoes' blow!
Gold these glorious sunsets!
Gold each dawning day!
Hip! Hip! Hooray! for Baker!
Tiger! Hooray! Hooray!
—Baker City Herald.

Golden grain we harvest,
Harvest every year.
Never have a failure,
Never have a fear
That the golden harvest
Will be less each year,
Than five million bushels
In Umatilla here.
—Pendleton E. O.

Away up here in Wallowa
About five thousand feet,
We live on bear and venison,
The rarest kind of meat.
We have cattle, sheep and horses,
And have money too, galore,
And everybody's happy—
Who could ask for more?

Publishers Notice.

On and after Feb. 15, all subscribers outside of Wallowa county must be cash in advance, and the paper will be stopped when the time is up. Therefore all our subscribers outside the county who still want the paper must send in the cash or their names will be dropped off. All accounts for such subscriptions up to that time will be placed in the hands of attorneys for collection. Hoping that this arrangement will be satisfactory to both ourselves and subscribers outside of the county we are,
Yours very truly,
Rouse & Roe,
Publishers Wallowa Chieftain.

VALIDITY OF NEW ROAD LAW.

Decisions Which Throw Some Light on This Question.

SALEM, Jan. 30.—"The first section of the road law passed by the last Legislature materially affects ranchers in Eastern Oregon," says I. Campbell Martin, of Dayville, in a recent letter to The Oregonian. Mr. Martin wishes information upon the legal effect of this section of the statute, which reads as follows:

"All roads or thoroughfares not heretofore legally established within the State of Oregon that may have heretofore been used, or may hereafter be used for a period of 10 consecutive years more by the general public for the purpose of travel without interference or protest, are hereby declared to be county roads."

The chief question in the mind of Mr. Martin is whether this section of the law is constitutional in view of the fundamental principle that private property shall not be taken for public use without just compensation. While the Oregon Supreme Court has not had occasion to pass upon the section quoted, it has rendered two decisions in road cases, which throw some light on the question raised. One of the most recent decisions approaching this question was rendered just a year ago in the case of C. E. Bayard against the Standard Oil Company, appealed from Wasco county. In discussing the subjects of public easements the opinion written by Judge Wolverson says:

Use by the general public, under a claim of right, adversely, and not by mere permission of the owner, for the period prescribed by the statutes as a limitation beyond which actions for the recovery of real property cannot be maintained, will establish an easement in favor of the public. But the use must be continuous and uninterrupted, and substantially by a certain and well-defined line of travel for the entire period.

The limitation prescribed by statute is ten years; hence under this decision, if a road across a man's land has been used continuously for 10 years, adversely, under claim of right, and not by permission of the owner, the road has become a public highway and the owner of the land cannot close it.

This decision was rendered prior to the passage of the act of 1901, and therefore declares the rights that may be acquired by the public regardless of this statute. About 16 years ago the Supreme court held that mere uses, however long continued, will not be sufficient to create a right in the public. The rule was laid down in a case in which it was shown that the owner of the land maintained a gate across the road, and persons using the road opened and shut the gate when they passed over the road. Thus there was not uninterrupted uses under claim of right. The fact that the land owner maintained gates was sufficient to show that he had not made a full dedication of the road to the public.

The statute of 1901 provides that when the public has used a road for 10 consecutive years "without interference or protest," the road shall be a public highway. No reference is made to any "claim of right" on the part of the public, and therefore if the statute stands the test of the constitutional provision, it must be upon the theory that by permitting the use of the road without interference or protest the owner of the land intends to dedicate it to the public.

It will be noticed that the statute says roads "not heretofore legally established." These words must be given some significance, and since the statute would cover all roads used for 10 years, without the employment of the words "not heretofore legally established," it is fair to presume that the Legislature meant this act to apply only to roads which have been established but which are not legal highways, owing to some defect in the proceedings.

It is well known that many roads have been laid out and are now in use in pursuance of proceedings which are

fatally defective. In all cases of this kind which have been taken into the courts, it has been held that after 11 years' use, such roads are in fact legal highways, however defective the proceedings may have been. The Legislature by using the words "not heretofore legally established," indicated an intention to apply the act to roads which had been the subject of proceedings, but which still required remedial legislation to make them legal. The Oregon Supreme Court has held that courts will be slow to declare a road a public highway merely upon adverse uses, so it is probable that this statute would be given a construction as favorable as possible to the property owner.

In prairie countries, where fences are uncommon, it is the custom of farmers to drive by the shortest route, thus making roads across uninclosed land. It is hardly probable that the Legislature intended to declare all such roads to be public highways after 10 years' use, when the public had merely taken advantage or the permission of the land owners to cross their property. As applied to roads established and used after defective proceedings, of which the land owner had notice, the statute in question would be fair and equitable, but if applied generally to all roads used for 10 years, it would be extremely unfair, and detrimental to the public, for if so stringent a law is to be in effect, property-owners must discontinue such favors to the public. Lawyers generally take the view that the statute applies only to roads that have been established, but by defective proceedings.—Jan. 30 Oregonian.

La Grande-Cove Surveys.

The surveyors have completed two routes for the La Grande-Cove railroad, one follows the main line of the Elgin branch to Island City, from there it is to keep to the south side of Grande Ronde river. If built from this point the road will be thirteen miles in length. The other survey commences at a point near the Conley Spur and continues on the north side of the river for several miles. From this point the Cove may be reached by building 11 miles of new road. J. M. Church, the president of the road, states that either of the two routes are practical and follows most of the way along sectional lines which means little if any damage to the property run through.

Mr. Church stated that while it depended in a very large measure with the property owners regarding the right of way and the grading, every indication at this time points to the early completion of the road. In any event, he stated, the matter would not hang fire, but it would be positively known within a very short time whether or not the road will be constructed. It is the intention of the company to temporarily use steam power, but later this will be supplanted by electricity, the company already having secured the site and power a short distance above the Cove.—La Grande Chronicle.

Additional Locals.

F. A. Clark was a passenger on today's stage en route for Portland.

Dr. and Mrs. Gregg of Wallowa were visiting Dr. Temple and family on Wednesday.

C. T. McDaniels the real estate man of Wallowa was in town today on a business trip.

A number of the members of the Wallowa Chapter O. E. S. went to Joseph Wednesday evening on a fraternal and social visit to the Chapter at that place. After three candidates had been passed through the interesting initiation ceremonies of the order, a delicious supper was served by the ladies of the Joseph chapter which was certainly enjoyed by both visitors and entertainers. The well deserved reputation that the Joseph people have for doing things about right, especially when the ladies are in the lead, certainly lost nothing on this occasion.